

Message Text

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C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 02156

E.O. 11652: GDS
TAGS: SHUM, SOCI
SUBJECT: AD HOC WORKING GROUP ON CHILE

1. HERE IS THE TEXT OF A MEMO DRAFTED BY THE AD HOC
WORKING GROUP ON CHILE FOR APPROVAL BY THE GOC.

"1. THIS MEMORANDUM REFLECTS THE EXCHANGE BETWEEN THE AD
HOC WORKING GROUP AND REPRESENTATIVES OF THE GOVERNMENT OF
CHILE AT THE MEETINGS HELD IN NEW YORK FROM 22 TO 26 MAY
1978.

"A. VISIT OF THE AD HOC WORKING GROUP TO CHILE

"2. THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE IN-
FORMED THE GROUP THAT CONDITIONS NOW EXISTED WHICH ENABLED
THE GOVERNMENT TO AGREE TO A VISIT BY THE GROUP TO CHILE IN
FULFILMENT OF THE GROUP'S MANDATE. THE GROUP RECOGNIZED
THE UNPRECEDENTED NATURE OF THE VISIT IT WOULD UNDERTAKE TO
CHILE AND THE GROUP EXPRESSED ITS DETERMINATION TO FULFIL
ITS MANDATE IN AN OBJECTIVE AND IMPARTIAL MANNER AND,
WITHIN THE TERMS OF ITS MANDATE, TO TAKE STEPS TO THAT END
IN COOPERATION WITH THE GOVERNMENT OF CHILE. TAKING INTO
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CONSIDERATION THE GOVERNMENT'S WISH THAT THE VISIT TAKE
PLACE IN THE NEAR FUTURE AND THE NEED FOR ADEQUATE PREPARA-
TION IT WAS AGREED THAT THE VISIT WOULD BEGIN ON OR ABOUT
12 JULY 1978 FOR AN EFFECTIVE DURATION OF TWO WEEKS, WHICH
THE GROUP DETERMINED TO BE THE MINIMUM TIME NECESSARY TO
CARRYING OUT ADEQUATELY THE VISIT AS PART OF ITS MANDATE.

"B. FACILITIES TO BE ENJOYED BY THE GROUP DURING THE VISIT

"3. IT WAS AGREED THAT THE GROUP WOULD ENJOY THE FOLLOWING FACILITIES DURING THE VISIT WHICH ARE NECESSARY TO THE CARRYING OUT OF ITS MANDATE:

(A) FREEDOM OF MOVEMENT. THE MEMBERS OF THE GROUP AND THE ACCOMPANYING SECRETARIAT STAFF WILL ENJOY FREEDOM OF MOVEMENT THROUGHOUT THE COUNTRY.

(B) FREEDOM OF INVESTIGATION. THE GROUP, ITS MEMBERS AND THE ACCOMPANYING SECRETARIAT STAFF WILL HAVE ACCESS TO PRISONS, PLACES OF DETENTION AND INTERROGATION CENTERS, WILL BE ABLE TO INTERVIEW FREELY AND PRIVATELY PERSONS, GROUPS AND REPRESENTATIVES OF ENTITIES AND INSTITUTIONS AND WILL HAVE ACCESS TO FILES AND OTHER DOCUMENTS OR MATERIALS WHICH IT CONSIDERS NECESSARY TO ITS INQUIRY. THE GOVERNMENT WILL PROVIDE MEMBERS OF THE GROUP AND THE SECRETARIAT STAFF WITH OFFICIAL IDENTITY DOCUMENTS STIPULATING THE ABOVE. THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE NOTED THAT ACCESS TO PLACES, PERSONS AND FILES, DOCUMENTS OR OTHER MATERIALS UNDER THE JURISDICTION OF THE JUDICIAL AUTHORITIES IS SUBJECT TO THE AUTHORIZATION OF THE COMPETENT OFFICIALS AND THAT ACCESS TO PLACES CONNECTED WITH NATIONAL SECURITY

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IS SIMILARLY SUBJECT TO THE AUTHORIZATION OF THE COMPETENT OFFICIALS. THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE UNDERTOOK TO MAKE THE NECESSARY ARRANGEMENTS WITH THE APPROPRIATE AUTHORITIES PRIOR TO AND DURING THE VISIT TO ENSURE THE GROUP'S FREEDOM OF INVESTIGATION. VISITS OR INTERVIEWS WITH PRIVATE PERSONS OR INSTITUTIONS WOULD TAKE PLACE WITH DUE RESPECT FOR THE NORMAL RIGHTS OF SAID PERSONS OR INSTITUTIONS.

"C. ASSURANCES GIVEN BY THE GOVERNMENT OF CHILE IN CONNEXION WITH THE VISIT

"4. THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE ASSURED THE GROUP THAT NO PERSON WHO HAD BEEN IN CONTACT WITH THE GROUP WOULD FOR THAT REASON BE SUBJECTED TO - COERCION, SANCTIONS, PUNISHMENT OR JUDICIAL PROCEEDINGS. THE GROUP ATTACHES PARTICULAR IMPORTANCE TO THESE GUARANTEES.

"5. THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE ASSURED THE GROUP THAT THE REQUIRED MEASURES WILL BE TAKEN TO ENSURE THE PRIVACY AND UNIMPAIRED CONDUCT OF THE

ACTIVITIES OF THE GROUP AND THE SECURITY OF THE MEMBERS
OF THE GROUP, THE SECRETARIAT STAFF AND THE GROUP'S
RECORDS AND DOCUMENTS WHILE IN CHILE.

"6. THE FREEDOMS AND ASSURANCES MENTIONED IN PARAGRAPHS
3, 4 AND 5 WOULD BE OFFICIALLY COMMUNICATED TO THE GROUP
IN WRITING BY THE GOVERNMENT OF CHILE.

"D. BASIC RULES OF PROCEDURE

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"7. THE GROUP REITERATED THAT IT COULD NOT DIMINISH OR
DEPART FROM ITS TERMS OF REFERENCE AS DETERMINED BY THE
COMMISSION ON HUMAN RIGHTS AND THE GENERAL ASSEMBLY NOR
COULD IT DELEGATE OR RENOUNCE ITS SOLE RESPONSIBILITY FOR
THE INTERPRETATION OF ITS MANDATE. PARAGRAPHS 7
THROUGH 14 REFLECT THE GROUP'S UNDERSTANDING OF CERTAIN
ASPECTS OF ITS MANDATE.

"8. THE GROUP WAS OF THE OPINION THAT ITS FUTURE RE-
PORTS TO THE COMMISSION ON HUMAN RIGHTS AND THE GENERAL
ASSEMBLY SHOULD COVER THE SITUATION OF HUMAN RIGHTS IN
CHILE FROM THE MOST RECENT EXTENSION OF ITS MANDATE, IT
BEING UNDERSTOOD THAT THE SUBSTANCE AND CONCLUSIONS OF
PRIOR REPORTS WOULD IN NO WAY BE AFFECTED, IN PART OR IN
WHOLE. CASES AND SITUATION ALREADY MENTIONED IN PRE-
VIOUS REPORTS WHICH CONTINUED TO EXIST AND THOSE AREAS IN
WHICH THE COMMISSION OR GENERAL ASSEMBLY HAD RECOMMENDED
SPECIFIC ACTION WHICH HAD NOT YET BEEN TAKEN COULD BE
STUDIED AND REPORTED ON BY THE GROUP.

"9. MEETINGS AND THE HEARING OF WITNESSES WOULD, AS PROVIDED FOR IN RULES 5 AND 16 OF THE GROUPS RULES OF PROCEDURE, BE HELD IN CAMERA.
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"E. EXCHANGE OF INFORMATION BETWEEN THE GROUP AND THE GOVERNMENT

"10. IN ORDER TO FACILITATE COLLABORATION BETWEEN THE GROUP AND THE GOVERNMENT OF CHILE THE GROUP WOULD COMMUNICATE TO THE REPRESENTATIVES OF THE GOVERNMENT OF CHILE IN THE MEASURE POSSIBLE THE GROUP'S VIEWS ON AREAS OF ITS CONCERN RELATING TO THE SITUATION OF HUMAN RIGHTS IN THAT COUNTRY. THE GROUP WOULD ALSO COMMUNICATE TO THE GOVERNMENT OF CHILE INFORMATION ON INDIVIDUAL CASES OR EVENTS OF CONCERN TO THE GROUP RELATING TO THE SITUATION OF HUMAN RIGHTS IN CHILE IN SO FAR AS SUCH TRANSMISSION OF INFORMATION IS CONSISTENT WITH THE GROUP'S MANDATE AND THE GROUP'S OBLIGATIONS TO PERSONS SUPPLYING INFORMATION OR MENTIONED THEREIN. THIS WOULD BE DONE WITH A VIEW TO ENABLING THE GOVERNMENT TO SUBMIT INFORMATION AND VIEWS ON THESE MATTERS.

"11. THESE EXCHANGES WOULD TAKE PLACE DURING AND AFTER THE GROUP'S VISIT AND FOR THIS PURPOSE A SPECIAL MEETING FOR TWO DAYS BETWEEN THE GROUP AND THE GOVERNMENT WOULD TAKE PLACE AFTER THE END OF THE VISIT. DURING THE VISIT CONTACTS WITH THE LIAISON OFFICER (S) IN THIS REGARD WOULD BE MAINTAINED AS APPROPRIATE. INFORMATION OR VIEWS FROM THE GOVERNMENT OF CHILE WILL BE TAKEN INTO CONSIDERATION BY THE GROUP IN THE PREPARATION OF ITS REPORT AND INCLUDED THEREIN AS APPROPRIATE.

"12. IN CONNEXION WITH THE CONTENTS OF THE SUBSTANTIVE AREAS OF THE GROUP'S REPORT ON WHICH THE GOVERNMENT OF CHILE HAD NOT PREVIOUSLY HAD THE OCCASION TO SUBMIT ITS INFORMATION OR ITS VIEWS, THE GROUP WOULD MAKE KNOWN
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TO THE GOVERNMENT THE SUBSTANTIVE CONTENTS OF SUCH AREAS BEFORE THE FINAL ADOPTION OF ITS REPORT. INFORMATION AND VIEWS OF THE GOVERNMENT IN THIS REGARD WOULD BE TAKEN INTO CONSIDERATION BY THE GROUP AND, AS APPROPRIATE, INCLUDED IN ITS REPORT. THE GROUP AGREED THAT IT WOULD ANNEX TO ITS REPORT THE OBSERVATIONS OF THE GOVERNMENT,

PROVIDED THEY WERE RECEIVED PRIOR TO THE END OF THE GROUP'S MEETINGS AT WHICH IT ADOPTS ITS REPORT. SHOULD THEY BE RECEIVED AFTER SUCH MEETINGS THEY WOULD BE BROUGHT OUT IN AN ADDENDUM TO THE DOCUMENT CONTAINING THE GROUP'S REPORT.

"F. INFORMATION AND EVIDENCE

"13. THE GROUP WILL CONTINUE TO CAREFULLY WEIGH THE EVIDENTIARY VALUE OF ALL THE INFORMATION IT RECEIVES TAKING INTO CONSIDERATION, INTER ALIA, THE CHARACTER OF THE SOURCE OF THE INFORMATION, ITS DIRECT AND RELIABLE NATURE, THE POTENTIAL MOTIVATIONS OF THE SOURCE AND THE CONCORDANT NATURE OF OTHER INFORMATION. THE GROUP IS AWARE THAT IN TAKING THESE FACTORS INTO CONSIDERATION CERTAIN INFORMATION OR EVIDENCE, IN SOME CASES THAT FROM OFFICIAL SOURCES, BOTH NATIONAL AND INTERNATIONAL, MAY, IN GIVEN CIRCUMSTANCES, HAVE GREATER PROBATIVE VALUE THAN OTHER INFORMATION OR EVIDENCE AND THAT SUCH BE REFLECTED IN THE FINDINGS OF THE GROUP. THE GROUP IS ALSO AWARE THAT IN RELATION TO CERTAIN MATTERS, FOR EXAMPLE ECONOMIC, SOCIAL AND CULTURAL RIGHTS, OFFICIAL DOCUMENTS, REPORTS AND STUDIES MAY, IF ON THE POINT, BE RELEVANT BUT NOT TO THE EXCLUSION OF OTHER EVIDENCE. THE GROUP WILL TAKE INTO CONSIDERATION THE RELEVANT INFORMATION AND CONCLUSIONS ARRIVED AT BY THE SPECIALIZED AGENCIES AND OTHER INTERNATIONAL BODIES ON MATTERS WITH-

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IN THEIR RESPECTIVE COMPETENCE.

"14. THE GROUP WISHES TO POINT OUT THAT THE NATURE OF ITS MANDATE AND THE TASK IT IS REQUIRED TO PERFORM REQUIRES THAT IT BE RESPONSIBLE FOR THE FINAL DECISIONS OF THE PROBATIVE VALUE OF INFORMATION AND EVIDENCE IN LIGHT OF ALL THE RELEVANT CIRCUMSTANCES.

"15. IN CONNEXION WITH ITS VISIT TO CHILE THE GROUP WILL TRANSMIT TO THE GOVERNMENT OF CHILE AN INDICATIVE BUT NOT EXHAUSTIVE LIST OF PERSONS AND REPRESENTATIVES OF INSTITUTIONS THE GROUP MAY WISH TO INTERVIEW AND THE PLACES AND INSTITUTIONS IT MAY WISH TO VISIT TO ENABLE THE GOVERNMENT TO TAKE THOSE STEPS NECESSARY TO FACILITATE THE VISIT. IN THE EXERCISE OF ITS FREEDOM OF MOVEMENT AND INVESTIGATION THE GROUP WILL ITSELF DEFINITELY DECIDE ON ITS PROGRAMME AND THE PERSONS IT WILL INTERVIEW AND THE PLACES IT WILL VISIT.

"G. LIAISON WITH THE GROUP

"16. THE GOVERNMENT OF CHILE UNDERTAKES TO APPOINT ONE OR MORE LIAISON OFFICER FOR THE PREPARATION OF THE CONFIDENTIAL

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GROUP'S VISIT AND FOR ASSISTING AND FACILITATING THE VISIT OF THE GROUP.

"H. PRIVILEGES AND IMMUNITIES OF THE MEMBERS OF THE GROUP AND SECRETARIAT STAFF

"17. THE GOVERNMENT OF CHILE AGREED THAT THE MEMBERS OF THE GROUP AND THE SECRETARIAT STAFF WOULD ENJOY, IN ADDITION TO THE PRIVILEGES AND IMMUNITIES TO WHICH THEY ARE ENTITLED BY VIRTUE OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, FULL DIPLOMATIC PRIVILEGES AND IMMUNITIES.

"I. ANNOUNCEMENT OF THE RESULTS OF THE PRESENT MEETINGS

"18. THE GROUP WOULD MAKE A PUBLIC ANNOUNCEMENT OF THE RESULTS OF THE PRESENT MEETINGS WHEN AGREEMENT IS REACHED ON A VISIT TO CHILE. THE REPRESENTATIVES OF THE GOVERNMENT WOULD BE CONSULTED ON THE PRESS RELEASE.

"PRESS STATEMENT READ OUT BY MR. ALLANA

"THE AD HOC WORKING GROUP ON CHILE MET IN NEW YORK FROM 18 TO 26 MAY 1978. ON THE INVITATION OF THE GROUP, REPRESENTATIVES OF THE GOVERNMENT OF CHILE, AMBASSADOR S. DIEZ, AMBASSADOR M. SCHWEITZER AND MR. O. ERRAZURIZ HAD SEVERAL MEETINGS WITH THE GROUP. THE GROUP STATED

THAT IN FULFILMENT OF ITS MANDATE IT DESIRED TO VISIT
CHILE DURING THE COURSE OF THIS YEAR. REPRESENTATIVES
OF THE GOVERNMENT OF CHILE EXPRESSED THAT THEIR GOVERN-
MENT WELCOMES SUCH A VISIT AND WOULD DO EVERYTHING
POSSIBLE TO ENABLE THE WORKING GROUP TO CARRY OUT A
STUDY OF THE SITUATION OF HUMAN RIGHTS IN CHILE. THE
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DATE OF THE VISIT OF THE WORKING GROUP WOULD BE FIXED
BY MUTUAL CONSULTATION AND CONSENSUS AMONG THE GROUP
AND THE GOVERNMENT OF CHILE." YOUNG

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